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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/820,526 | 04/07/2004 | Andrew Valdez | | 8335 |

7590 04/14/2006

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EXAMINER

ABDELWAHED, ALI F

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3722

DATE MAILED: 04/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/820,526

Applicant(s)

VALDEZ, ANDREW

Examiner

Ali Abdelwahed

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,114,285 to Brydon in view of U.S. Patent Application Publication No. 2004/0020809 A1 to Allan et al.

Brydon discloses a door drilling template (10) comprising a square U shaped three sided channel having two opposing parallel spaced mating sides (50, 60) and an interconnecting top (70) orthogonal to both sides (see fig.1). The template is fabricated of rigid material, such as plastic (see Abstract lines 1-2, and column 3, lines 17-20). The template has at least one mating configuration of spaced pencil-point-size marking holes (80) on both opposing sides of the channel (see fig.1). Each of the at least one configuration of holes corresponding to a configuration of screw holes in a door mounted fixture, such as a door closer, lock fixture, or knob fixture that are to be attached to the door by screw-type attaching means (see column 1, lines 47-51). The template is adapted for straddling the edge of the door with the two opposing sides positioned over a portion of a front and back side of a door and the top over an edge of a door (see fig. 4).

However, Brydon fails to teach the parallel spaced mating sides and interconnecting top of the template device being sufficiently thin (or ultra-thin) and flat for fitting in flat contact between an edge of a door and a door frame when the door is closed, and the marking holes only large enough for a pencil point. Nevertheless, Allan et al. teaches a template device (4, 24) with parallel spaced mating sides (18, 25) and an interconnecting top (12, 12') that is sufficiently thin and flat to fit between an edge of a door and a door frame when the door is closed (see figs. 2, 9).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the template of Brydon, in view of Allan et al., such that it would provide the template of Brydon with the concept of the parallel spaced mating sides and interconnecting top being sufficiently thin and flat to fit between an edge of a door and a door frame when the door is closed for the purpose of utilizing the device when the door is in an open or closed position with respect to the door frame and to also provide accurate alignment with mating elements on the door frame.

Furthermore, given that the Brydon and Allan et al. references disclose all of the claimed structural limitations of the above claims, the Brydon and Allan et al. references therefore are assumed to be capable of performing all of the claimed functions of the above claims.

Additionally, it would have been an obvious matter of design choice to modify the template of Brydon by having the parallel spaced mating sides and interconnecting top of the template device being sufficiently thin (or ultra-thin) and flat for fitting in flat contact between an edge of a door and a door frame when the door is closed, and

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having the marking holes only large enough for a pencil point, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brydon in view of Allan et al. as applied to claim 1 above, and further in view of U.S. Patent No. 5,058,285 to Morita et al.

Brydon, as modified, discloses the claimed invention except for the template further comprising a line visible on each side of the template interconnecting each of the configurations of holes, thereby distinguishing each configuration of holes from another. However, Morita et al. teaches a template device (1) comprising a line (6, 7) visible on each side of the template interconnecting each of the configurations of holes (see fig. 1a, and columns 2 and 3, lines 61-64 and 15-17). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the template of Brydon, as per the teachings of Morita et al., such that it would provide the template of Brydon with the concept of having a line visible on each side of the template interconnecting each of the configurations of holes for the purpose of distinguishing one configuration of holes from another configuration of holes.

Response to Arguments

Applicant's arguments filed on October 6, 2005 have been fully considered but they are not persuasive.

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Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ali Abdelwahed whose telephone number is (571) 272-4417. The examiner can normally be reached Monday through Friday from 10:00 A.M. to 6:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on (571) 272-4502.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the examiner or the examiner's supervisor.

AA

AA
04/06/2006


BOYER D. ASHLEY
SUPERVISORY PATENT EXAMINER